

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 02-620-A
)	
WILLIAM FITZGERALD,)	
)	
Defendant.)	

STATEMENT OF FACTS

Were the United States to proceed to trial in this case, it would provide testimonial and documentary evidence to prove beyond a reasonable doubt that from approximately March 2001 through July 2001, defendant William Fitzgerald (the "Defendant") did willfully infringe the copyrights of copyrighted works, by reproduction and distribution during a 180 day period of ten (10) or more copies of one (1) or more copyrighted works which had a retail value of \$2,500 or more, in violation of federal criminal copyright laws, Title 17 United States Code, Section 506(a)(2) and Title 18 United States Code, Section 2319(c)(1). Specifically, the testimonial and documentary evidence would establish, at a minimum, the following facts:

1. The Defendant's willful conduct included his reproducing and distributing copyrighted works. Between March 2001 and July 2001, the Defendant placed unauthorized copies of copyrighted computer software on a computer located in his personal residence and made this software available for download over the Internet using file transfer protocol software. By accessing this computer using the Internet, a person could download and use the software for free. A large amount of the copies were

“cracked” versions of the software that had their copyright protections removed or that included pirated serial numbers in an attached text file. The Defendant obtained much of this software from Internet chat rooms, devoted to discussing software pirating. The Defendant did not personally remove or “crack” the copyright protection of any of the programs and did not financially gain from his conduct.

2. The Defendant told co-workers about the availability of downloading these software programs from his computer by providing them with his computer’s Internet protocol address (“IP Address”), which is a unique address registered to a particular computer on the Internet. He also provided the computer’s IP Address to other individuals during discussions in Internet chat rooms. By accessing the Defendant’s computer with an Internet browser or other similar software, members of the public could access his computer and download any software, which the Defendant had uploaded to his computer for that purpose. This software then could be used without payment to the owner or holder of the copyright. The Defendant was not authorized or licensed to reproduce or distribute the copyrighted software available for download from his computer.

3. At the time of his infringement, the Defendant was working as a computer technician for the county of Arlington, Virginia.

4. The Defendant’s computer was located at his personal residence at 5817 South 4th Street, Arlington, Virginia, located in the Eastern District of Virginia. The Defendant had sole control of the computer and the other two computers located in the residence with which it was networked.

5. The Defendant was aware that his copyright infringement was a violation of law.

6. The Defendant acknowledges that he caused the reproduction and distribution of more than 10 copies of one or more copyrighted works within a 180-day period having a total retail value of more than \$2,500. The Defendant and government agree to recommend to the Court, based on the evidence now known to the government, that the infringement amount under the provisions of §2B5.3(b)(1) of the applicable Federal Sentencing Guidelines attributable to the Defendant should be more than \$40,000 but less than \$70,000.

Respectfully Submitted,

Paul J. McNulty
United States Attorney

By: _____
Scott J. Stein
Assistant United States Attorney

Jay V. Prabhu
Trial Attorney
Computer Crime and Intellectual
Property Section
U.S. Department of Justice

Seen and Agreed:

William Fitzgerald
Defendant

Ivan Davis, Esq.
Counsel for Defendant